

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

William Eldredge,

Court File No: 09-2018 (SRN/JSM)

Plaintiff,

v.

City of Saint Paul and
Saint Paul Department of Fire and Safety Services,

Defendants.

**ORDER ON PLAINTIFF’S MOTION TO EXCLUDE IRRELEVANT AND
PREJUDICIAL TERMINOLOGY**

The above-entitled matter came on for hearing before the Honorable Susan Richard Nelson on September 16, 2011 on Plaintiff’s Motion to Exclude Irrelevant and Prejudicial Terminology [Doc. No. 241. For the reasons set forth herein, Plaintiff’s motion is denied without prejudice.

Plaintiff seeks to exclude evidence and arguments referring to Plaintiff as “blind,” “legally blind,” or claiming that he has “legal blindness.” In particular, Plaintiff seeks to exclude Defendants’ Proposed Exhibits 5 and 41. Defendant opposes the motion.

Particularly as to the terms “legally blind” and “legal blindness,” they may only be used after defense counsel has laid sufficient expert medical foundation as to the meaning of the term and its applicability, if any, in this context. The Court therefore cautions Defense counsel that such terminology should not be used in opening statements unless the defense makes clear the evidence it intends to introduce to make the term relevant to

this case. Assuming that properly supported testimony is given by defense expert witnesses, Plaintiff's counsel may challenge their testimony through cross-examination. Since neither party maintains that Plaintiff is "blind," it would be inaccurate and highly prejudicial to use that word before the jury and it is therefore prohibited. As to Defendants' Proposed Exhibit 5, it is inadmissible for other reasons. Defendants' Proposed Exhibit 41 may be admitted only if proper foundation is laid with a medical expert as to the definition of "legal blindness," and its relevance to this case.

Based on all the files, records and proceedings herein, including the arguments of counsel, IT IS HEREBY ORDERED:

1. Plaintiff's Motion to Exclude Irrelevant and Prejudicial Terminology [Doc. No. 241] is **DENIED WITHOUT PREJUDICE**.

Dated: Sept. 16, 2011

BY THE COURT:

s/Susan Richard Nelson
Judge Susan Richard Nelson
District Court Judge